



**Qwest**  
607 14<sup>th</sup> Street NW, Suite 950  
Washington, DC 20005  
Phone 202.429.3122  
Fax 202.293.0561

**ORIGINAL**

**Ed Henry**  
Director - Finance

**REDACTED – FOR PUBLIC INSPECTION**

January 23, 2006

**EX PARTE**

**VIA HAND DELIVERY**

**RECEIVED**

JAN 23 2006

Federal Communications Commission  
Office of Secretary

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Room TW B-204  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: *In the Matter of Petition of Qwest Corporation for Waiver of Depreciation  
Regulation Pursuant to 47 C.F.R. § 1.3 – WC Docket No. 05-259<sup>1</sup>*

Dear Ms. Dortch:

On October 24, 2005, Qwest filed an ex parte in the above-captioned proceeding. That ex parte followed up on a meeting held on October 20 that included the undersigned, along with Jerome Mueller and Marti Gude, all of Qwest and Tamara Preiss, Fatina Franklin, Steve Morris, Rick Robinson, and Ronald Kaufman of the Wireline Competition Bureau. In addition, in connection with the October 20 meeting, Qwest filed on December 1 another ex parte that responded to various related questions from the Staff.

Both the October 24 and December 1 submissions included confidential material, thus redacted and non-redacted versions were filed. Although the two sets of confidential material had analogous attributes as to their competitively sensitive nature, Qwest cited to different FCC rules upon which it based the requests for non-disclosure. In filing this letter today, Qwest would like to make the October 24 request for confidentiality consistent with the December 1 submission. In addition, the pages of the confidential material attached to the non-redacted version of the ex parte submitted on October 24 contained incomplete markings (that is, the markings did not match the marking on the first page of the ex parte ("**CONFIDENTIAL-NOT FOR PUBLIC INSPECTION**").

With this letter, Qwest indicates that its October 24 submission of confidential material was made pursuant to both FCC Rules 47 C.F.R. §§ 0.457 and 0.459. In addition, filed under separate cover today is a *resubmitted* non-redacted version of the confidential material that was

<sup>1</sup> See Public Notice, 20 FCC Rcd 13836 (rel. Aug. 22, 2005).

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submitted on October 24, with each page (that included confidential data) now marked: **"CONFIDENTIAL-NOT FOR PUBLIC INSPECTION"**. The resubmitted confidential data continues to be competitively sensitive information and should not be made available for public inspection. A release of this data would have a substantial negative competitive impact on Qwest. Qwest provides justification for such confidential treatment in the attached Appendix. The redacted version of the October 24 submission is *not* being resubmitted today because, where necessary, the pages of the attached materials included the appropriate marking (**"REDACTED – FOR PUBLIC INSPECTION"**), with the confidential data completely removed.

Please include a copy of this letter (in redacted form and marked **"REDACTED – FOR PUBLIC INSPECTION"**), without the confidential material appended thereto, in the public record of WC Docket No. 05-259.

Pursuant to FCC Rule 47 C.F.R. § 1.1206(b)(2), this ex parte presentation is being filed via hand delivery. An original and one copy are being submitted as well as one copy to be stamped as received and returned to the messenger who has been instructed to wait for it.

Qwest is serving a copy of today's submission on the same Staff (indicated below) that received a copy of its October 24 submission. Please contact the undersigned with any questions.

Sincerely,



Enclosure (Appendix)

cc: Tamara Preiss ([Tamara.Preiss@fcc.gov](mailto:Tamara.Preiss@fcc.gov))  
Fatina Franklin ([Fatina.Franklin@fcc.gov](mailto:Fatina.Franklin@fcc.gov))  
Steven Morris ([Steve.Morris@fcc.gov](mailto:Steve.Morris@fcc.gov))  
Richard Robinson ([Richard.Robinson@fcc.gov](mailto:Richard.Robinson@fcc.gov))  
Ronald Kaufman ([Ronald.Kaufman@fcc.gov](mailto:Ronald.Kaufman@fcc.gov))

## Appendix

### Confidentiality Justification

Qwest requests confidential treatment of the financial information being provided, which also includes rate element data, because it is confidential and proprietary financial information. That information should be afforded confidential treatment under either (or both) 47 C.F.R. § 0.457 and § 0.459.

#### 47 C.F.R. § 0.457

The financial information designated as confidential is confidential and proprietary to Qwest as “trade secrets and commercial or financial information” under Section 0.457(d). Disclosure of such information to the public would risk revealing company-sensitive proprietary information and would have a substantial negative competitive impact on Qwest.

#### 47 C.F.R. § 0.459

The financial information designated as confidential is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

#### Information for which confidential treatment is sought

Qwest requests that the materials attached to the confidential version of this ex parte and designated as “**CONFIDENTIAL – NOT FOR PUBLIC INSPECTION**” be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. Each page of these materials contains confidential and proprietary financial information.

#### Commission proceeding in which the information was submitted

The information is being submitted in WC Docket No. 05-259, *In the Matter of Petition of Qwest Corporation for Waiver of Depreciation Regulation Pursuant to 47 C.F.R. § 1.3*.

#### Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

As noted above, the financial information designated as confidential is detailed confidential commercial financial data and accounting information. Public disclosure of this information would be harmful to Qwest as it is competitively sensitive.

Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

This financial information relates to services that are subject to competition, is not made publicly available by Qwest and generally would not be subject to routine public inspection under the Commission's rules (47 C.F.R. § 0.457(d)), demonstrating that the Commission already anticipates that release of this kind of information likely could produce competitive harm.

Measures taken by Qwest to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Qwest treats this financial information as confidential and has protected it from disclosure to parties outside the company.

Justification of the period during which Qwest asserts that the material should not be available for public disclosure

Qwest cannot determine at this time any date on which this information should not be considered confidential or would become stale for purposes of the current inquiry, except that the information would be handled in conformity with general Qwest records retention policies, absent any continuing legal hold on the data.

Other information that Qwest believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The financial information designated as confidential satisfies this test.